IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE

CAROLYN FRANKLIN,))
Plaintiff,	Civil Action No.
v.) <u>Jury Trial Demanded</u>
ACE CASH EXPRESS, INC.,)
Defendant.)
	,

COMPLAINT

CAROLYN FRANKLIN ("Plaintiff"), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against ACE CASH EXPRESS, INC. ("Defendant"):

INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Telephone Consumer Protection Act, 47. U.S.C. Sec. 227, *et seq.* ("TCPA").

JURISDICTION AND VENUE

- 2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).
- 3. Defendant regularly conducts business in the State of Tennessee therefore personal jurisdiction is established.
 - 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

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PARTIES

- 5. Plaintiff is a natural person residing in Memphis, Tennessee.
- 6. Plaintiff is a "person" as that term is defined by 47 U.S.C. § 153(39).
- 7. Defendant is a corporation with its principal place of business located at 1235 Greenway Drive, Suite 600, Irving, Texas 75038.
 - 8. Defendant is a "person" as that term is defined by 47 U.S.C. § 153(39).
- 9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

- 10. Plaintiff has had the same cellular telephone number for more than a year.
- 11. Plaintiff has only used the number as a cellular telephone.
- 12. Beginning on or around January 2016, and continuing through April 2016, Defendant placed repeated telephone calls to Plaintiff's cellular telephone number for a third party named Trent Tucker.
- 13. When contacting Plaintiff on her cellular telephone, Defendant used an automatic telephone dialing system and/or pre-recorded voice.
- 14. Plaintiff knew Defendant was using an automatic telephone dialing system and/or pre-recorded voice as the calls would begin with a pre-recorded message.
- 15. Defendant's telephone calls were not made for "emergency purposes," rather Defendant was attempting to contact a third party named Trent Tucker.
- 16. In January 2016, Plaintiff told Defendant it was calling the wrong number and revoked any consent that may have been previously given.

- 17. Defendant heard and acknowledged Plaintiff's request to cease calls.
- 18. However, Defendant continued to call through April 2016, often multiple times in a day, with knowledge it was calling the wrong party.

COUNT I DEFENDANT VIOLATED THE TCPA

- 19. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.
- 20. Defendant initiated multiple automated telephone calls to Plaintiff's cellular telephone using an automatic telephone dialing system.
 - 21. Defendant's calls to Plaintiff were not made for emergency purposes.
- 22. Defendant's calls to Plaintiff were not made with Plaintiff's prior express consent as Defendant was calling for a third party, not Plaintiff.
 - 23. Plaintiff also told Defendant to cease calling in February 2016.
- 24. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.
- 25. The acts and/or omissions of Defendants were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.
- 26. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

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WHEDEEO	ORE, Plaintiff, CAROLYN FRANKLIN, respectfully prays for judgment as	
follows:	RE, Hamum, CAROLTN PRAINKEIN, respectionly prays for judgment as	
a.	All actual damages suffered pursuant to 47 U.S.C. §227(b)(3)(A);	
b.	Statutory damages of \$500.00 per violative telephone call pursuant to 47	
	U.S.C. §227(b)(3)(B);	
c.	Treble damages of \$1,500 per violative telephone call pursuant to 47 U.S.C.	
	§227(b)(3);	
d.	Injunctive relief pursuant to 47 U.S.C. §227(b)(3);	
e.	Any other relief deemed fair and proper by this Honorable Court.	
	DEMAND FOR JURY TRIAL	
PLEASE TAKE NOTICE that Plaintiff, CAROLYN FRANKLIN, demands a jury trial		
in this case.		
	Respectfully submitted,	
DATED: June 1	0, 2016 By: /s/ Amy Lynn Bennecoff Ginsburg Amy Lynn Bennecoff Ginsburg, Esquire	

DATED: June 10, 2016

By: /s/ Amy Lynn Bennecoff Ginsburg
Amy Lynn Bennecoff Ginsburg, Esquire
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